



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

CHRISTINE TODD WHITMAN
Governor

JOHN J. FARMER, JR.
Attorney General
MARK S. HERR
Director

October 11, 2000

By Certified and Regular Mail

Mr. Eugene Selim, P.T.
67 Winfield Avenue
Jersey City, NJ 07305

Mailing Address:

P.O. Box 45014
Newark, NJ 07101
(973) 504-6455

Re: Excessive billing and Failure to comply with the business practices regulations
Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Mr. Selim:

This letter is to advise you that the New Jersey State Board of Physical Therapy (the "Board") has had an opportunity to review information concerning the physical therapy services performed on Roy Roxas and Jessilene Daniells. Specifically, the information reviewed included:

1. Patient and billing records of Roy Roxas from June 28, 1999 through October 22, 1999.
2. Patient records of Jessilene Daniells dated April 17, 2000 through May 23, 2000.
3. Transcript of Eugene Selim dated June 13, 2000.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(e) and N.J.A.C. 13:39A-2.1, 13:39A-3.1(b)3, 13:39A-3.1(b)5, 13:39A-3.1(b)8, 13:39A-3.1(b)9, 13:39A-3.1(b)10 and 13:39A-3.4(b)1 in that your patient records for the physical therapy treatment received by Roy Roxas contain numerous deficiencies. The Board found that the subjective information in Roxas' initial evaluation was general and that both subjective information and the objective information was insufficient to initiate effective physical therapy treatment and lacked a physical therapy diagnosis in violation of N.J.A.C. 13:39A-2.1 and 13:39A-3.1(b)3. Moreover, your testimony evidences that you were not aware that you are required to make a physical therapy diagnosis in the course of the physical therapy evaluation (T30 and T31:1-3).

You have also admitted that the patient progress notes of Roy Roxas did not contain patient goals and did not reflect the changes in treatment as required by N.J.A.C. 13:39A-3.1(b)5 and 13:39A-3.1(b)8 respectively (T28:1-11). Furthermore, the patient record does not include any evidence of communication with the other health care professionals relative to the patient's care as required by N.J.A.C. 13:39A-3.1(b)9. Your signature and license number are not

consistently included in the Roxas patient records; there are some instances where you sign the notes but you failed to put your license number as required by N.J.A.C. 13:39A-3.1(a).

The patient record of Roy Roxas does not contain a discharge summary as required by N.J.A.C. 13:39A-3.1(b)10. You testified that the record is devoid of a discharge summary because the patient did not return for his treatment. When questioned about your procedure for documenting the record in cases where patients discontinue treatment, you testified that you make a notation to the record. However, you admitted that in the Roxas case, you did not document in the record that the patient was discharged (T25:19-25 and T26).

Additionally, a review of the billing records evidences that you billed for each body part to which treatment was applied for example, you consistently billed for hot packs cervical and hot packs lumbar on the same day (T20:1-24). This method of billing is inconsistent with and violative of the Department of Insurance and Banking regulations at N.J.A.C. 11:3-29.4(f). This billing method amounts to double billing which the Board considers excessive and constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e).

Furthermore, you testified that you do not discuss the billing with patients nor could you remember the actual charges for various types of treatments (T17:1-7 and T15) as required by N.J.A.C. 13:39A-3.4(b)1.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of formal disciplinary proceedings, should you consent to:

1. cease and desist from violating the business practice regulations of the Board at N.J.A.C. 13:39A-3.1 et. seq;
2. comply with the financial arrangements regulation at N.J.A.C. 13:39A-3-4 which requires the physical therapist to be knowledgeable of the fees for services or the basis for determining the fees to be charged.
3. the issuance of a formal reprimand;
4. pay a penalty in the amount of \$5000 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter); This amount constitutes a fine of \$2500 for violation of N.J.S.A. 45:1-21(e) and \$2500 for the violations of N.J.A.C. 13: 39A-3.1 as referred to specifically herein.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be

scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General, Carmen A. Rodriguez who may be reached at (973) 693-5056.

If you elect to settle this matter now you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD
OF PHYSICAL THERAPY

By: Susan Gartland
Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Eugene Selim, P.T., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$5000 (to be paid upon signing of this acknowledgment), and to comply with all other requirements set forth in the settlement letter.

Eugene Selim, P.T.

Dated:

cc: Anthony LaBue, Esquire
Carmen A. Rodriguez, Deputy Attorney General

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